

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES PALMER BENSON,

Defendant.

Case No. CR12-37-JLR

**PROPOSED FINDINGS OF FACT
AND DETERMINATION AS TO
ALLEGED VIOLATIONS OF
SUPERVISED RELEASE**

INTRODUCTION

I conducted a hearing on alleged violations of supervised release in this case on September 14, 2012. The defendant appeared pursuant to a warrant issued in this case. The United States was represented by Francis Franze-Nakamura, and defendant was represented by Michael Filipovic. Also present was U.S. Probation Officer Richard Cowan. The proceedings were digitally recorded.

SENTENCE AND PRIOR ACTION

Defendant was sentenced on May 3, 2005, by the Honorable Lonny R. Suko in the Eastern District of Washington for Felon in Possession of a Firearm. He received 70 months detention and 3 years of supervised release. Mr. Benson's initial term of supervision commenced in the Western District of Washington on November 12, 2010, and is scheduled to expire on November

1 11, 2013.

2 On October 12, 2011, a violation report and request for modification of conditions sent to
3 the Eastern District of Washington. Additionally, a request for transfer of jurisdiction to the
4 Western District of Washington was requested. On October 20, 2011, Judge Suko signed the
5 modification to include up to 180 days at the residential reentry center ("RRC").

6 On February 1, 2012, a second violation report was submitted to Judge Suko advising that
7 Mr. Benson had been terminated from the RRC for being in possession of tattooing
8 paraphernalia, and later, for being in possession of another resident's room key. Mr. Benson was
9 terminated from the RRC on January 27, 2012. The supervising USPO requested no action be
10 taken since Mr. Benson was attending school and had secured clean and sober housing.

11 On February 8, 2012, the request for no action was signed. Transfer of jurisdiction was
12 accepted by the Court on February 27, 2012.

13 PRESENTLY ALLEGED VIOLATIONS

14 In a petition dated June 26, 2012, U.S. Probation Officer Jennifer Tien alleged that
15 defendant violated the following conditions of supervised release:

16 1. Failing to satisfactorily participate in the residential reentry center by leaving on
17 June 24, 2012, without permission, in violation of the special condition that he reside at the RRC
18 for up to 90 days.

19 FINDINGS FOLLOWING EVIDENTIARY HEARING

20 Defendant admitted the above violations, waived any hearing as to whether they occurred,
21 and was informed the matter would be set for a disposition hearing October 15, 2012 at 10:00
22 a.m., before District Judge James L. Robart.

RECOMMENDED FINDINGS AND CONCLUSIONS

Based upon the foregoing, I recommend the court find that defendant has violated the conditions of his supervised release as alleged above, and conduct a disposition hearing.

DATED this 14th day of September, 2012.



BRIAN A. TSUCHIDA
United States Magistrate Judge